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FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY-BOARD OF CALIFORNIA

SACRAMENTO, CA 10/27/2011
BY [Signature] ANALYST

8
9 **BEFORE THE**
10 **PHYSICAL THERAPY BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 1D-2010-68634

14 **DOUGLAS SCOTT KORCEK, PT**
15 4412 Saint Rose Way
16 Yreka, CA 96097

OAH No.

A C C U S A T I O N

Physical Therapist License No. PT 9569

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Rebecca Marco, (Complainant) brings this Accusation solely in her official capacity as the
21 Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

22 2. On or about January 17, 1980, the Physical Therapy Board of California issued
23 Physical Therapist License Number PT 9569 to Douglas Scott Korcek, PT (Respondent). The
24 Physical Therapist License was in full force and effect at all times relevant to the charges brought
25 herein and will expire on October 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2620.3 of the Code states:

“A physical therapist licensed pursuant to this chapter may apply topical medications as part of the practice of physical therapy as defined in Section 2620 if he or she complies with regulations duly adopted by the board pursuant to this section and the Administrative Procedure Act. The board shall adopt regulations implementing this section after meeting and conferring with the Medical Board of California and the California State Board of Pharmacy specifying those topical medications applicable to the practice of physical therapy and protocols for their use. Nothing in this section shall be construed to authorize a physical therapist to prescribe medications.”

5. Section 2620.7 of the Code states in relevant part:

“(a) A physical therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.”

“(b) A physical therapist shall document the care actually provided to a patient in the patient record.”

“(c) A physical therapist shall sign the patient record legibly.”

...

6. Section 2660 of the Code states in relevant part that:

The board may, after the conduct of appropriate proceedings under the Administrative Procedures Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

1 ...
2 (g) Gross negligence in his or her practice as a physical therapist or physical therapist
3 assistant.

4 7. Section 2661.5 of the Code states:

5 "(a) In any order issued in resolution of a disciplinary proceeding before the board, the
6 board may request the administrative law judge to direct any licensee found guilty of
7 unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of
8 the investigation and prosecution of the case.
9

10 "(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in
11 any event be increased by the board. When the board does not adopt a proposed decision and
12 remands the case to an administrative law judge, the administrative law judge shall not increase
13 the amount of the assessed costs specified in the proposed decision.
14

15 "(c) When the payment directed in an order for payment of costs is not made by the
16 licensee, the board may enforce the order of payment by bringing an action in any appropriate
17 court. This right of enforcement shall be in addition to any other rights the board may have as to
18 any licensee directed to pay costs.

19 "(d) In any judicial action for the recovery of costs, proof of the board's decision shall be
20 conclusive proof of the validity of the order of payment and the terms for payment.
21

22 "(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the
23 license or approval of any person who has failed to pay all of the costs ordered under this section.

24 "(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or
25 reinstate for a maximum of one year the license or approval of any person who demonstrates
26 financial hardship and who enters into a formal agreement with the board to reimburse the board
27 within that one year period for those unpaid costs.
28

1 "(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund
2 as a reimbursement in either the fiscal year in which the costs are actually recovered or the
3 previous fiscal year, as the board may direct."

4 8. California Code of Regulations, Title 16, section 1399.76, states:

5 "As used in this article 'topical medication' means medications applied locally to the skin
6 or underlying tissue where there is a break in or absence of skin where such medications require a
7 prescription or order under federal or state law."

8
9 9. California Code of Regulations, Title 16, section 1399.77 states:

10 "Topical medications may be administered by a physical therapist by:

11 (a) Direct application;

12 (b) Iontophoresis; or

13 (c) Phonophoresis."

14
15 10. California Code of Regulations, Title 16, section 1399.78 states:

16 " Topical medications shall be applied or administered by a physical therapist in accordance
17 with this section."

18 (a) Any topical medication applied or administered shall be ordered on a specific or
19 standing basis by a practitioner legally authorized to order or prescribe such medication.

20 (b) Written protocols shall be prepared for the administration or application of each of the
21 groups of medication listed in Section 1399.79 for which a prescription is required under
22 Federal or State law, which shall include a description of the medication, its actions, its
23 indications and contraindications, and the proper procedure and technique for the
24 application or administration of medication."
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FIRST CAUSE FOR DISCIPLINE

**[Bus. & Prof. Code §§ 2660(g), 2620.3, and Title 16 C.C.R. § 1399.78]
(Patient D.C.-Gross Negligence/Improper Delivery of Topical Medication)**

11. Respondent is subject to disciplinary action under sections 2660(g), 2620.3, and Title 16 C.C.R. section 1399.78 in that respondent failed to have a working MD prescription for the topical medications he is using for specific patient care. The circumstances are as follows:

12. On or about January 17, 2011, respondent conducted a physical therapy evaluation of patient D.C. which included in his plan of treatment "pain relieving/inflammation relieving modalities to Achilles tendon." On January 26, 2011, treatment of Iontophoresis is documented by respondent for patient D.C., but there is no documentation of the medication used or the dosage. There were no MD orders specifying which medications to use during treatment of Iontophoresis.

SECOND CAUSE FOR DISCIPLINE

**[Bus. & Prof. Code §§ 2660(g), and 2620.7]
(Patient D.C.-Gross Negligence/Insufficient Documentation of Treatment Rendered)**

13. Complainant hereby incorporates paragraph 12 of the instant Accusation as though fully set forth herein.

14. Respondent is subject to disciplinary action under §§ 2660(g) and 2620.7 in that respondent failed to adequately document the treatment rendered. The circumstances are as follows:

15. On or about January 26, 2011 respondent failed to document the medication use or dosage for the Iontophoresis treatment he gave to patient D.C.

THIRD CAUSE FOR DISCIPLINE

**[Bus. & Prof. Code §§ 2660(g), 2620.3, and Title 16 C.C.R. § 1399.78]
(Patient C.T.-Gross Negligence/Improper Delivery of Topical Medication)**

16. Respondent is subject to disciplinary action under §§ 2660(g), 2620.3, and Title 16 C.C.R. § 1399.78 in that respondent failed to have a working MD prescription for the topical medications he is using for specific patient care. The circumstances are as follows:

1 17. On or about December 1, 2009, respondent conducted a physical therapy evaluation
2 of patient C.T. which included in his plan of treatment "wound cleansing. Repacking of wound
3 with new gauze and dry sterile dressing." Respondent documented that "wound cleaning
4 occurred on patient C.T. on 12/3/2009, 12/4/2009, and 12/28/2009 but does not indicate what
5 topical medication was used to cleanse the wound. There were no MD orders specifying which
6 medication to use during wound care.
7

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **[Bus. & Prof. Code § 2660(g), and 2620.7]**

10 **(Patient C.T.-Gross Negligence/Insufficient Documentation of Treatment Rendered)**

11 18. Complainant hereby incorporates paragraph 17 of the instant Accusation as though
12 fully set forth herein.

13 19. Respondent is subject to disciplinary action under §§ 2660(g) and 2620.7 in that
14 respondent failed to adequately document the treatment rendered. The circumstances are as
15 follows:

16 20. Respondent documented that "wound cleaning occurred on patient C.T. on 12/3/2009,
17 12/4/2009, and 12/28/2009 but does not indicate what topical medication was used to cleanse the
18 wound. On 12/21/2009 and 12/23/2009 the treatment is indicated as "wound care" of patient C.T.
19 but there are no specifics as to what that entailed. A re-evaluation of patient C.T. was performed
20 by respondent between 12/3/2009 and 12/9/2009, but there is no date on the re-evaluation.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **[Bus. & Prof. Code §§ 2660(g), 2620.3, and Title 16 C.C.R. § 1399.78]**

23 **(Patient P.R.-Gross Negligence/Improper Delivery of Topical Medication)**

24 21. Respondent is subject to disciplinary action under §§ 2660(g), 2620.3, and Title 16
25 C.C.R. § 1399.78 in that respondent failed to have a working MD prescription for the topical
26 medications he is using for specific patient care. The circumstances are as follows:

27 22. On or about January 19, 2010, respondent conducted a physical therapy evaluation of
28 patient P.R. which included in his plan of treatment included "gait, Iontophoresis, heat/cold,
massage, Phonophoresis, therapeutic exercise, ultra sound, and work conditioning". On

1 1/21/2010, 2/2/2010, and 2/11/2010, respondent failed to document the type of topical medication
2 and/or dosage used for Iontophoresis or Phonophoresis on patient P.R. On 2/4/2010, 2/18/2010,
3 2/22/2010, and 2/26/2010 respondent failed to document the dosage of the topical medication
4 used for Iontophoresis or Phonophoresis on patient P.R. There were no MD orders specifying
5 which medications to use during treatment of Iontophoresis or Phonophoresis.

6 **SIXTH CAUSE FOR DISCIPLINE**

7 **[Bus. & Prof. Code §§ 2660(g), and 2620.7]**

8 **(Patient P.R.-Gross Negligence/Insufficient Documentation of Treatment Rendered)**

9 23. Complainant hereby incorporates paragraph 22 of the instant Accusation as though
10 fully set forth herein.

11 24. Respondent is subject to disciplinary action under §§ 2660(g) and 2620.7 in that
12 respondent failed to adequately document the treatment rendered. The circumstances are as
13 follows:

14 25. On or about and between 1/21/2010 and 1/28/2010, respondent re-evaluated patient
15 P.R. but respondent failed to re-date the re-evaluation. Additionally as described above
16 respondent failed to document the dosage and/or type of topical medication used on patient P.R.
17 during approximately seven treatment sessions.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Physical Therapy Board of California issue a decision:

21 1. Revoking or suspending Physical Therapist License Number PT 9569, issued to
22 Douglas Scott Korcek, PT.

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1 2. Ordering Douglas Scott Korcek, PT to pay the Physical Therapy Board of California
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 2661.5;

4 3. Taking such other and further action as deemed necessary and proper.

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6 DATED:

10/27/2011



REBECCA MARCO
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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